as suggested above. It seems a rather dangerous doctrine to extend the police power to an unnecessary degree by holding that a now common means of transportation can be excluded from the highways. This might easily be made the entering wedge for a further extension of this already extensive power to a minute regulation and even extinction of lawful occupations, and the breaking down of the constitutional guarantees of liberty and property under the guise of public protection.

J. S. M., Jr.

JURISDICTION OF A COURT OF PROBATE IN GRANTING LETTERS OF ADMINISTRATION.—In *Estate of Daughaday*[1] the court sitting in probate in determining its jurisdiction to grant letters of administration states the rule to be that if a non-resident leaves no estate in the county in which letters of administration are petitioned for there is no reason for issuance of such letters. The majority of jurisdictions seems to be in accord with this view that the interest of a non-resident decedent must at least appear to have some value in order to give a court jurisdiction for granting letters of administration. As to what constitutes assets, it has been held that an equitable claim is sufficient;[2] to the same effect, a right of action for negligent injury causing death,[3] an interest in an action at law[4] and the mere fact that a claim is doubtful or even unenforceable is immaterial[5] as the validity is not a question for a court of probate to decide, but the court, exercising its discretion, may deny letters where the claim is not of reasonable or colorable value.[6]

If the decedent is a resident in or an inhabitant of the county in which letters are petitioned for, in the absence of statutory requirement, the possession of an estate is not a jurisdictional prerequisite to the appointment of an administrator even where the applicant is merely a creditor.[7] In Watson v. Collins' Adm'r[8]

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[1] (June 20, 1914), 47 Cal. Dec. 736, 141 Pac. 929.

[2] Estate of Daughaday, supra, note 1.

[3] Missouri Pac. R. R. Co. v. Lewis (1888), 24 Neb. 848, 40 N. W. 401, 2 L. R. A. 67.

[4] Murphy, Neal & Co. v. Creighton (1876), 45 Iowa 179.

[5] Sullivan v. Fosdick (1877), 10 Hun. 173; Parsons v. Spaulding (1880), 130 Mass. 83.

[6] Estate of Daughaday, supra, note 1.

[7] Holburn v. Pfanmiller's Adm'r. (1903), 114 Ky. 831, 71 S. W. 940.

[8] (1861), 37 Ala. 587. See also, Wheat v. Fuller (1887), 82 Ala. 572, 2 So. 628; Duff v. Duff (1886), 71 Cal. 513, 521, 12 Pac. 570; Contra, In re Murray (1878), Myr. Prob. (Cal.), 208; Flood Adm'r v. Pilgrim (1873), 32 Wis. 376; Merriweather v. Kenard (1874), 41 Tex. 273. As against collateral attack it would seem that the grant of letters of administration is conclusive, Irwin v. Scriber (1861), 18 Cal. 499; Connors v. Cunard S. S. Co. (1910), 204 Mass. 310, 90 N. E. 601; Andrews v. Avory (1858), 14 Gratt. 229, 73 Am. Dec. 355, except, of course, as to the fact of death, Stevenson v. Superior Court (1882), 62 Cal. 60.

the court said that only when the testator resides outside the state at the time of his death are assets necessary for granting letters of administration. The question may arise as one of practical importance where a resident has died and left no property or rights which may be ascertained by the court even to make a prima facie showing of assets, as for example, the deceased may be a mortgagee of real estate fully paid but not discharged upon the record, or a creditor may believe there are hidden assets. The following language of Mr. Justice Gray in Pinney v. McGregory,[9] seems to indicate that a court of probate will always grant such letters where administration is either necessary, or advisable or desirable: "To limit the power of granting administration to cases in which the goods are or the debtor resides in the Commonwealth at the time of the death of the intestate would be to deny to the creditors and representatives of the deceased, whether citizens of this or of another state, all remedy whenever goods are brought into this state, or a debtor takes up his residence here, after the death of the intestate." The reasoning of the cases seems to establish clearly that if the decedent resides in the jurisdiction it is not necessary to inquire whether there is property, and that even though the decedent is a non-resident a court may grant letters if there is a valid purpose to be served other than the distribution of assets.

C. R. S.

MASTER AND SERVANT: INTERFERENCE BY THIRD PERSONS: LAWFULNESS OF LABOR UNIONS.—Under what circumstances are the activities of a labor union lawful when they result in the severance of the relationship of master and servant? This question is brought up in the case of *Mitchell v. Hitchman Coal Company.*[1] The coal company ran a non-union mine, contracting with its employees not to hire union men, the employees in turn contracting, individually, that they were non-union men, and that if they should join any union they would withdraw from the company's employ. The Federal District Court for West Virginia held that the officials of the United Mine Workers of America could not be enjoined from inducing these employees by peaceable persuasion to join the union, although thereby the relation of master and servant was severed.

It is settled law that one who knowingly induces the breach of a subsisting contract of employment, unless he has legal justification,[2] is guilty of an actionable wrong.[3] But it is not necessary

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[9] (1869), 102 Mass. 186, 193.

[1] (May 28, 1914), 214 Fed. 662.

[2] Wharton v. Jossey (1872), 46 Ga. 578.

[3] Lumley v. Gye (1853), 2 El. & Bl. 216; Walker v. Cronin (1871), 107 Mass. 555; Haskins v. Royster (1874), 70 N. C. 601, 16 Am. Rep. 780; Flaccus v. Smith (1899), 199 Pa. 128, 48 Atl. 894, 54 L. R. A. 640, 85 Am. St. Rep. 779; Brown Hardware Co. v Indiana Stoveworks (1903),